

June 28, 2004

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JUNE 28, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA
JOSEPH MINUTA

ALTERNATE: KATHLEEN LOCEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call to order the June 28, 2004 meeting of the New Windsor Zoning Board.

APPROVAL OF MINUTES DATED MAY 24, 2004

MR. KANE: Vote on the minutes from the May 24 meeting, please?

MR. REIS: Make a motion that we accept the minutes as written.

June 28, 2004

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MR. MC DONALD: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |

PRELIMINARY MEETINGS:

JAMES LEE (04-48)

Mr. James Lee appeared before the board for this proposal.

MR. KANE: Request for 3 ft. front yard setback for existing concrete porch at 12 Lawrence Avenue. What we do in New Windsor is a little different than other towns, we hold a preliminary meeting so we can get an idea of what you want to do, a lot of towns it's cold, you're not prepared, that's it. Okay, so what you're going to go through here is the exact same thing you're going to go through a public hearing. All the votes have to be by public hearing so tell us what you want to do.

MR. LEE: What happened when my wife and I bought the house in 1968 it had a 6 foot by 8 foot concrete porch on there exactly where it is right now and what I did around 1983 I just added it, I lengthened the porch out so that it would be 14 feet, just the same size of my front of my house. And we put a cap on it so we can put a couple of chairs there, sit on it at night, I guess.

MR. KANE: So the whole--

MR. LEE: The existing porch was always 32 foot from the road and we just widened it.

MR. KANE: Put it any further out than the porch was existing since in 1968?

MR. LEE: Yes.

MR. KANE: Do we have anything on record?

MR. BABCOCK: Yes, what changes is that you're allowed

a 6 by 8 foot that does not project into the front setback so it's the 6 x 8 was legal, once he made it to 14 feet now it has to measure the setback, that's where the problem is.

MR. KANE: So we'll clear that up then. Some questions I have to ask, they may not pertain, but I've got to ask them anyway. Cut down any trees?

MR. LEE: No.

MR. KANE: Create any water hazards or runoffs?

MR. LEE: No.

MR. KANE: Any complaints formally or informally?

MR. LEE: Never, sir.

MR. KANE: Any easements?

MR. LEE: No.

MR. REIS: What brings you to the board?

MR. LEE: Well, I just want to make everything legal for my children eventually if they ever wanted to sell the house and I never got a permit for this work to be done back in '83 and I just want to get everything legal.

MR. KANE: Should I bring it up? We're fixing the, you might want to take a look at the pool in the back.

MR. LEE: I've got one of them, I was here last year.

MR. KANE: I thought it looked familiar.

MR. LEE: And the fence too.

MR. KANE: Great and obviously without the porch, it's a safety hazard if you would walk out your front door?

MR. LEE: Yes.

MR. KANE: And the porch itself coming out from the front of your house does that make the whole house stick out any closer to the road than other houses on your street?

MR. LEE: No, there's some closer like old Ducktown there's all crazy things there.

MR. KANE: Gentlemen, do you have any other questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we set up Mr. Frank Lee for a public hearing for his requested variance at 12 Lawrence Avenue.

MR. MC DONALD: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE, |

MR. KAEN: Just follow what's on this sheet, you have to come back and do it all over again. Have a good night.

MR. LEE: Thank you very much. Good night.

JOHN WHITE (04-49)

Mr. John White appeared before the board for this proposal.

MR. KANE: Request for 5 ft. rear yard setback for proposed in-ground pool with 4 ft. fence at 2714 Colonial Drive in an R-3 zone. You heard everything I said before, right, preliminary?

MR. WHITE: Yes. My name is John White. What we'd like to do is we're interested in an in-ground pool 16 foot wide and that would be a problem because of the 10 foot restriction all around from our home and from the rear property and from the side properties as well so I was petitioning for a change to five feet in the rear yard, rear yard is only 34 feet, 10 and 10 on each side, only looking about 14 foot wide.

MR. KANE: This is your house right here, is that what we're looking at this, in this particular--

MR. WHITE: No, no, this is my house here.

MR. MC DONALD: Which one are we looking at?

MR. KANE: If you look on this set of pictures right here that's from the back of his house looking out to the back yard.

MR. MC DONALD: In looking at this plan that you've got here, you've got the property, is this where you want your pool on this end?

MR. WHITE: Yes, sir.

MR. MC DONALD: And you wanted the 10 foot to the fence, what happens to the 58 foot, why can't we move it over and we don't have to go through it?

MR. WHITE: No, we wouldn't because the 10 foot in the back is the problem.

MR. MC DONALD: You're all set on this side?

MR. WHITE: Yeah.

MR. MC DONALD: Every time it seems we get in The Reserve everybody wants to put it on the fence line and then we have acres and acres.

MR. WHITE: I don't want to go out the back door and fall into the pool.

MR. MC DONALD: That's just a question, okay, you answered my question.

MR. MINUTA: Mike, what's the minimum setback to the pool from the house?

MR. KANE: Not from the house, nothing in New Windsor.

MR. BABCOCK: No, there isn't.

MR. MINUTA: It can be as close to the house as you want.

MR. KANE: That's if you that, have it off the back of the house, most of New Windsor I'm not sure in this area is 12 feet for the pool off the property line.

MR. BABCOCK: Here it's 10 foot.

MR. KANE: So 10 foot, Butterhill is 10 foot, this area's obviously 10 foot, the rest of the Town is 12 or a good portion.

MR. BABCOCK: Most of it is 10 foot, wherever there's a restriction that was done differently and it's certain zoning when they built the development, then it

changed.

MR. KANE: Just off the back property line and the sides, nothing, no requirement off the back of the house?

MR. MINUTA: Right, well, with regard to that, if we can bring that closer to the house I see no reason for the setback in this situation.

MR. KANE: Still that's going to be pretty, you only have--

MR. MINUTA: Seven feet away from the house at that point.

MR. KANE: Seven feet from the furthest point of the house, if you look at the kickout where the stairs are coming down that's going to be pretty close to the pool. The other thing you've got to remember putting it that close to the pool something happens to it you've got a problem with the house.

MR. MINUTA: Agreed.

MR. KANE: So for safety issues that I think you should leave it the way it is, personally, plus when they dig out to put an inground, you're getting awfully close.

MR. MINUTA: How would that affect a neighboring yard let's say?

MR. KANE: As far as?

MR. MINUTA: As far as let's say we do have problems with the pool.

MR. KANE: Inground shouldn't be in where they're putting it right there, there shouldn't be a lot, I don't know the drainage in that particular area, but

being close to the house if there's a basement in there, they would have the problem. Anybody else, it's not like an above-ground where you've got 15,000 gallons of water coming out, it will normally seep down through the bottom and go away that way.

MR. MINUTA: Thank you.

MR. KANE: Where the pool's going to go in this general area that's going to have a fence?

MR. WHITE: Of course, four foot, the fence would encompass most likely the entire back yard.

MR. KANE: Cause you're not really private in that back yard so and you realize that if your application is granted that you have to meet all of the building inspector's regulations?

MR. WHITE: Yes.

MR. MC DONALD: Are there easements back there on the property running between the house? Are there any easements, sewer, water, drainage?

MR. KANE: Nothing is showing on the survey.

MR. WHITE: I don't think so.

MR. KANE: Going to sound silly, got to ask you, ask it anyway, no cutting down of trees or substantial shrubbery?

MR. WHITE: No trees there.

MR. KANE: Won't be creating any water hazards or runoffs with the building of this?

MR. WHITE: Not that I know of.

MR. KANE: And the size of the pool is similar to other in-grounds, it's not extraordinarily big?

MR. WHITE: I don't think so, 16 x 32.

MR. KANE: Average size. Gentlemen, any other questions?

MR. REIS: Mr. White, do you expect to create any deck instead of the existing?

MR. WHITE: I will put a pool deck, concrete or stone.

MR. KANE: Coming off the back of the house you're just going to have the steps right there?

MR. WHITE: I will probably put concrete steps, replace the wooden ones.

MR. KANE: But no deck is going back in that area?

MR. WHITE: No, a deck off the ground you mean?

MR. REIS: Right.

MR. WHITE: No, no, it would be concrete stairs we're envisioning going down to a patio.

MR. KANE: Okay.

MR. WHITE: Not a deck but a patio on the ground inlaid.

MR. REIS: Thank you.

MR. KANE: Any other questions? Motion?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: Make a motion that we pass Mr. John White to a public hearing for his requested five foot rear yard setback at 2714 Colonial Drive.

MR. MC DONALD: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

ROGER SMITH (04-50)

Mr. Roger Smith appeared before the board for this proposal.

MR. KANE: Request for 5 ft. side yard setback for proposed shed at 17 Shaw Road in an R-1 zone. Tell us what you want to do, sir.

MR. SMITH: Move the shed.

MR. KANE: It's an existing shed?

MR. SMITH: I built it, moved it and when they built the house, I'm about a foot and a half on the neighbor's property I found out and my lot's only 60 feet wide.

MR. KANE: So where you have it placed and the reason for the variance is that basically the only place you can put it on your yard?

MR. SMITH: It's the only place that makes sense to go off the back line that will give you all this room in here cause the shed is 12 feet wide, 12 x 12 and I need 13 feet, the septic's right here.

MR. KANE: So you're putting it too close to the septic?

MR. SMITH: Not so much that but the leach field's in here somewhere so eventually I'm going to have to redo all that.

MR. KANE: Will the shed be on a concrete pad?

MR. SMITH: No, just some piers in the ground.

MR. KANE: Cut down any trees, substantial vegetation?

MR. SMITH: No, just some pricker bushes or something like that.

MR. KANE: Shed in size is similar to other sheds in your neighborhood?

MR. SMITH: Yeah.

MR. KANE: Mike, the write-up says this is an existing shed, it says for a proposed shed, should we correct that?

MR. SMITH: I never got the C.O. because they--

MR. KANE: But it is existing, how long has it been up?

MR. SMITH: About two or three years now but, I mean, they couldn't give me the C.O. because it wasn't in place yet and I didn't know where to put it because I had to work on the house so I quit building the house and didn't know where to put it, it didn't make sense until I put the house up.

MR. KANE: Leave it as proposed.

MR. BABCOCK: We can do existing.

MR. KANE: Just want to make sure all the verbiage is correct.

MS. MASON: Make it existing?

MR. KANE: Yeah.

MR. KANE: So we're going to change that from proposed to existing since it is. Any complaints about the shed before that had nothing to do with it being on the property line?

MR. SMITH: No.

MR. KANE: Any complaints about the shed being over the property line?

MR. SMITH: No, there's an old fence running right down there and both of us always thought that was the property line, this is screwed up too here, this comes down like this and over and down.

MR. KANE: Only in New Windsor. Okay, any other questions?

MR. MINUTA: No.

MR. MC DONALD: Accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Make a motion that we set Mr. Roger Smith up for a public hearing for his requested five foot side yard setback.

MR. RIVERA: Second it.

ROLL CALL

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|---------------|-----|
| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

ANGEL BRENNAN (04-51)

MR. KANE: Request for 14 ft. rear yard setback for proposed attached 14 ft. x 14 ft. deck on a corner lot at 60 Clancy Avenue.

Mr. Angel Brennan appeared before the board for this proposal.

MR. KANE: How are you?

MR. BRENNAN: Good.

MR. KANE: Tell us what you want to do, sir.

MR. BRENNAN: I want to build a 14 x 14 attached deck off my house, it's a raised ranch.

MR. KANE: So basically, Mike, for him to build any size deck off the back of that house he would need some kind of a variance cause it looks to me like he's got 40 feet right from the back property line to the house?

MR. BABCOCK: Yeah, 40 feet six inches so he can build a six inch deck.

MR. KANE: Six inch deck, that's tough. The 14 x 14 deck itself that's similar to other decks that are in the neighborhood?

MR. BRENNAN: Yes.

MR. KANE: Cutting down any trees or substantial vegetation in the building of the deck?

MR. BRENNAN: No.

MR. KANE: Will you be creating any water hazards or runoffs?

MR. BRENNAN: No.

MR. KANE: Any easements in the area that you know of?

MR. BRENNAN: No.

MR. KANE: As long as we have you here and you're paying your money, Mike, do we have a C.O. on the shed in the back in the corner?

MR. BRENNAN: That's existing.

MR. KANE: As long as you're here because if you ever go to refinance or sell, you'd have to go through the process all over again. So we might want to add the deck in there, make it one trip for you, I mean, the shed, excuse me, right here, probably not 10 or 12 feet off your property line.

MR. BRENNAN: They gave me the C.O. when I built the house.

MR. KANE: On the shed?

MR. BRENNAN: Yeah, that was already on the property.

MR. KANE: Okay.

MR. BRENNAN: I didn't think it was a problem.

MR. KANE: That doesn't always make it totally legal.

MR. BABCOCK: I don't see it here, Mr. Chairman.

MR. BRENNAN: It was already on the lot when I built the house.

MR. REIS: What the chairman is suggesting that you take care of it now because you probably do not according to our records you do not have a C.O. for it.

MR. KANE: If you want to leave it be, I don't have a problem but trust me when I say that looks awfully close to the property line so sooner or later in this Town depending on the banks, the banks will drive the question for a C.O. on any auxiliary structure, there's a certain percentage of banks depending on what's being done that won't bother on a shed or something like that but if you go to a different bank then all of a sudden they're going to say where is the C.O. on the shed, C.O. on the house has nothing to do with the shed. So if you want to check it out and clear it up as long as you've paid this, it's not an additional cost to you, the only thing that's bringing additional cost is me talking more. We can clear it all up in one shot for you.

MR. BRENNAN: That makes sense.

MR. KANE: So if you want, Mike, can we check on that and add the shed and I believe he's going to need sides and possibly rear?

MR. BABCOCK: Yes.

MR. KANE: So we'll add that in there and try to clear it all up, we'll need some measurements from you.

MR. BABCOCK: The survey says it's 1.4 feet off the side, we're going to need the back, how far it is off the back property line approximately.

MR. KANE: Take the furthest point like right here and there too so that we can give you what you need. You'd go to the closer point to the back line, Mike?

MR. BABCOCK: Yes.

MR. KANE: This point right here, okay?

MR. BRENNAN: Yes.

MR. KANE: If you can give us that measurement from there and there to there then we'll add that tonight and clean it all up.

MR. BRENNAN: Okay.

MR. KANE: As far as the shed, the shed is similar in size to other sheds that are in the neighborhood?

MR. BRENNAN: Yes.

MR. KANE: No, as far as you know, there was no cutting down of trees or vegetation in the building of the shed?

MR. BRENNAN: No.

MR. KANE: Any complaints formerly or informally about the shed?

MR. BRENNAN: No.

MR. KANE: If you can bring those measurements back for the public hearing so we can clear it up. You guys have any other questions?

MR. MINUTA: No. Accept a motion?

MR. KANE: I will.

MR. MINUTA: Make a motion that we forward Angel Brennan for the requested 14 foot rear yard setback for proposed 14 x 14 foot deck to include the shed and the side and rear yard of that property for the purposes of a zoning variance.

MR. RIVERA: Second it.

June 28, 2004

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ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

GUARDIAN SELF-STORAGE (04-52)

MR. KANE: Request for 2 ft. height variance for proposed wall sign at 149 Windsor Highway in an NC zone.

MR. REYNOLDS: My name is Frank Reynolds. This is Kari Daniels, she owns Guardian Self-Storage. Here's the deal. Guardian's putting up a new building over on 32 just near the intersection of Union Avenue, it's roughly 58,000 square feet, going to be a temperature controlled self-storage facility. We'd like to put a sign on the face of the building, a wall sign. Your code allows 2 1/2 feet high by 10 feet long, the 10 feet long doesn't pose a problem for us, we'd like to make it another two feet higher for visibility along the road.

MR. KANE: Approximately, how far off the road is the front of the building going to be?

MR. REYNOLDS: From the center of the road, it's 160 feet the sign is going to go right there.

MR. KANE: Between the two towers?

MR. REYNOLDS: Correct, we're asking for a two foot variance, when you look at the face of the building, the square footage and square footage of the sign, the sign is going to probably be only about one percent of the entire face of the building.

MR. KANE: The entire face of the building, what about this area in here between the two towers?

MR. REYNOLDS: I didn't figure that out, I figured the whole face.

MR. KANE: If you can give me an idea, superimpose something over that, it will be great. Is it going to

be illuminated?

MR. REYNOLDS: Yes.

MR. KANE: Neon or flashing?

MS. DANIELS: No, our logo doesn't fit in that two foot as well, actually, most of the side variance is the roof line so it really throws it off, the arch, it's a registered trademark for us, we'd like to use it.

MR. KANE: When we did the measurements, we did the square out-box?

MR. BABCOCK: To the top.

MR. KRIEGER: How is it lit, externally or internally?

MR. REYNOLDS: Internally.

MR. KRIEGER: Steady illumination internally?

MR. REYNOLDS: That's correct.

MR. KANE: The sign itself you don't feel it's going to be any bigger than other business signs in that particular area?

MR. REYNOLDS: No, not at all and it's only going to be one business in that structure, we're not going to be coming back for other business, we're not going to do that to you, it's only Guardian.

MR. KANE: Will you be putting up a freestanding sign?

MR. REYNOLDS: There's one there, it's over in here someplace.

MR. KANE: That's the one you're going to be using is that freestanding sign?

MS. DANIELS: Yes, we're going to keep it.

MR. BABCOCK: Just one correction, it appears the information on this print says it's 54.86 inches high, if that's the case, we really should be looking for a two foot one inch variance.

MR. REYNOLDS: Point 86 puts us over.

MR. BABCOCK: Yeah.

MR. REYNOLDS: So it's exact, really, yeah, to be exact, I think he's right cause it does say .86.

MR. BABCOCK: So the proposed sign is actually 4 foot seven inches.

MR. REYNOLDS: Really 24.8 inches, 24.86 inches.

MR. KANE: Proposed we're going 4'7" and variance 2.1?

MR. BABCOCK: Right.

MR. KANE: With your permission, we'll make that change.

MR. REYNOLDS: Yes.

MR. MINUTA: I trust the proposed elevation here is to scale?

MR. REYNOLDS: Yes, it is.

MR. KANE: Any other questions, gentlemen?

MR. MC DONALD: Accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Make a motion we set up Guardian Self-Storage for the requested two foot one inch height variance for the proposed wall sign at 149 Windsor Highway.

MR. RIVERA: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

MICHAEL SULLA (04-53)

Mr. and Mrs. Michael Sulla appeared before the board for this proposal.

MR. KANE: Request for 20 ft. rear yard setback for existing attached rear deck and 4 ft. side yard setback and 5 ft. rear yard setback for existing shed all at 380 Frost Lane in an R-4 zone. Tell us what you want to do, sir.

MR. SULLA: We put a deck on the lower level and the shed we put back there a little while ago, wasn't sure I needed a permit for that, we put it on cinder blocks.

MRS. SULLA: We live on a corner property so we don't even have 40 feet from the back.

MR. SULLA: The way the house is facing, should have been at the side yard almost.

MR. KANE: Shed's similar in size and appearance to other sheds that are in the neighborhood?

MR. SULLA: Yes.

MR. KANE: And this is an existing shed?

MRS. SULLA: Yes.

MR. KANE: Any complaints formally or informally on the shed?

MR. SULLA: No.

MR. KANE: Cut down any trees or substantial vegetation?

MR. SULLA: No.

MR. KANE: Create any water hazards or runoffs?

MR. SULLA: No.

MR. KANE: That's it on the shed. Mike, it's just the 11 x 18 deck that we're doing the variance for the lower deck?

MRS. SULLA: Originally, we were going for the other one that's on top but then when I went into your office they said once we get the one for the lower, the other one should be included.

MR. KANE: Okay.

MR. BABCOCK: Yes, that's correct, Mr. Chairman.

MR. KANE: And since it's if I'm reading this correct is this 31.3 from the house to the back?

MR. SULLA: Yeah, yes.

MR. KANE: So your back yard no matter what you put back there you would need some kind of a variance?

MR. SULLA: Yes.

MR. KANE: You have a pool over here?

MRS. SULLA: Yes.

MR. KANE: Any questions, gentlemen?

MR. REIS: Do we have a C.O. for the existing pool?

MR. SULLA: Yes.

MR. KANE: Mike, when you look at their map, just to bring it up as I always do, is there any area coverage that we need to look at?

MR. BABCOCK: We can, it doesn't appear that anybody did that calculation, we can do that though.

MR. KANE: You heard me before, if there's something that we see I'd like to try to get it cleaned up for you so it doesn't come in. What we're talking about with developmental coverage in any town you can only build up your property so much and just looking at the deck and then you have the shed, the hot tub, believe it or not your driveway counts, the house, all that, there's a certain percentage of that property that you can do so we want to doublecheck, make sure it's okay. If not, we'll add it into the application with your permission.

MR. SULLA: Yeah.

MRS. SULLA: Our house is for sale so that's the reason why we even found this out.

MR. KANE: Then it makes sense to cover everything for you so that doesn't come back and then you'd be back her. Any questions, guys?

MR. REIS: Accept a motion?

MR. KANE: Yes.

MR. REIS: Make a motion that we place Michael Sulla for a public hearing for his requested variances at 380 Frost Lane.

MR. MC DONALD: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |

June 28, 2004

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MR. KANE
MR. MINUTA

AYE
ABSTAIN

JOHN TALDONE (04-54)

MR. KANE: Request for 1,790 sq. ft. lot area for proposed single-family dwelling on Sycamore Drive in an R-4 zone.

Mr. Michael Reis appeared before the board for this proposal.

MR. REIS: Mr. Taldone asked me to please represent him here this evening. This was presented to the board at another time and it was turned down. The owner is now substantially reducing the request for the size home, it's still a minimal lot that's required, okay, the 1,200 and some square feet but the house is now going to be a bi-level three bedroom two full bath under 2,000 square foot rather than a colonial 4 bedroom 2 1/2 bath over 3,000 square foot so it's a substantial decrease of the size of the house.

MR. KANE: Mike, will there be cutting down of trees or substantial vegetation with the building of this house?

MR. REIS: Only to support the driveway and the foundation on the property.

MR. KANE: Creating any water hazards or runoffs?

MR. REIS: No.

MR. KANE: Is this going to be well, Mike, septic?

MR. REIS: It's drilled well and Town sewer.

MR. KANE: Last time they were in, they were over 3,000.

MR. REIS: Yes.

MR. KANE: I believe that's accurate, right, Mike?

MR. BABCOCK: The house itself, yeah.

MR. KANE: I have no further questions at this time. Gentlemen?

MR. MINUTA: Is this lot coming under something, is this something we previously looked at?

MR. KANE: Yes, they're coming back with a different design.

MR. MINUTA: They cut about 1,100 feet of living space off it. I missed the last meeting.

MR. KANE: It was way too big for the lot. We're just setting him up for the public hearing at this point so Len, Steve?

MR. MC DONALD: No questions. Will you accept a motion?

MR. KANE: Yes, I will.

MR. MC DONALD: Move we set up Mr. John Taldone for his request for 1,790 foot lot area for proposed single family dwelling on Sycamore Drive for a public hearing.

MR. RIVERA: Second it.

ROLL CALL

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|---------------|-----|
| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

PUBLIC HEARINGS:

STEVEN SEGRETI (04-39)

MR. KANE: Request for second kitchen in single-family home for home occupation at 7 Forest Lane in an R-4 zone.

Mr. Steven Segreti appeared before the board for this proposal.

MR. KANE: At this point, I'll ask if there's anybody in the audience for this particular hearing? Seeing as there's not, tell us what you want to do.

MR. SEGRETI: Last year my wife started an at home dessert business and she primarily sold to friends and family and it has expanded, she now has the opportunity to sell to a restaurant and to do that she needs a health department certification and the health department requires that the kitchen meet certain requirements, which our present kitchen can't possibly satisfy so we wanted to take half of our garage and turn it into a kitchen that will satisfy the health department so she can continue to expand.

MR. KANE: Will the utilities, gas and electric be on the same meter as the house?

MR. SEGRETI: Yes, it's all one meter.

MR. KANE: You'll state for the record at this point that this will never be used as a second apartment?

MR. SEGRETI: No, it won't be used as an apartment.

MR. MINUTA: Is this to be a commercial kitchen classified as a commercial?

MR. SEGRETI: It's at home, I'm not sure of the

legalities as far as the wording, but it's an at home business kitchen, it has three sinks as per the health department requirements.

MR. KANE: How does she distribute, what it is she makes?

MR. SEGRETI: She makes it and then delivers it herself.

MR. KANE: So you don't have any unnecessary traffic coming into the neighborhood, no pickups at the house, anything along those lines?

MR. SEGRETI: And as a matter of fact, she doesn't like people coming to her house, she doesn't want, she'd much rather bring it to them.

MR. REIS: You're not going to have that 50 foot tractor trailer parked there?

MR. KANE: Mike, any problem with that as far as it being a home business?

MR. BABCOCK: No, that's actually, yes, her he can do the home business, it's just not what he wants to do is not listed as one of the home businesses and the second kitchen creates a need for him to be here.

MR. KANE: We're looking at, we're going to approve it as a second kitchen not basically a commercial, it's a home business.

MR. REIS: There's no change to the exterior of the building at all?

MR. SEGRETI: Other than the garage door that used to be in that bay coming off and being sided over to match the siding, that's the only exterior difference.

MR. MINUTA: Will there be a hood and an ansol system installed?

MR. SEGRETI: There's only an oven, no flame or so there shouldn't be the need for an ansol system.

MR. BABCOCK: Typically, the same as a pizza oven, it's not required, he doesn't have a deep fat fryer, doesn't have a stove, all he's got is the oven.

MR. SEGRETI: Just to bake the cheesecakes.

MR. KANE: You'll have a fire extinguisher down there?

MR. SEGRETI: Yes.

MR. KANE: And we put that in the record, okay?

MR. RIVERA: Will there be a large volume of traffic for delivery of supplies and equipment?

MR. SEGRETI: No, she pretty much picks up what she needs, she does the residential shopping and the ones that she makes she delivers herself on her errands.

MR. KRIEGER: The equipment you asked was about outgoing, the question he asked was about incoming.

MR. KANE: Okay.

MR. KRIEGER: The materials before the cooking process.

MR. KANE: Basically she does it all in and out, there's no other trucks, no kind of traffic coming in?

MR. SEGRETI: Yes, it's not that kind of volume, at least when it becomes that, it will hopefully be a shop somewhere.

MR. KRIEGER: If a variance is granted, that's one of

the conditions that will be put on it so that you won't, there not be any additional commercial traffic.

MR. SEGRETI: Right.

MR. KRIEGER: So it's not a question of hopefully if the business grows where that becomes necessary you won't be able to do it here.

MR. SEGRETI: Right.

MR. KANE: At this point, I will just hold the questions and open the meeting up to the public and I will ask one more time if there's anybody here for this particular meeting? Seeing as there isn't, we'll close the public portion and ask Myra how many mailings?

MS. MASON: On the 11th of June, I mailed out 47 envelopes and I had no responses.

MR. RIVERA: Accept a motion?

MR. KANE: Yes and please phrase it correctly as far as the commercial aspect.

MR. RIVERA: Okay, I make a motion that we grant Steven Segreti the requested second kitchen in the single family home for the occupation of the home business meaning residential to maintain residential and not commercial use at 7 Forest Lane.

MR. MC DONALD: Second it.

ROLL CALL

| | |
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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

ROBERT COMPASSO, JR. (04-37)

MR. KANE: Request for 5.3 ft. front yard setback for proposed covered front porch at 362 Riley Road.

Mr. Robert Compasso, Jr. appeared before the board for this proposal.

MR. KANE: Anybody here for this particular hearing? Okay, tell us what you want to do.

MR. COMPASSO: We want to remove the existing 5 x 5 deck and replace it with a 27 x 6 covered porch.

MR. KANE: How big is the proposed covered porch again?

MR. COMPASSO: 27 x 6, I believe it is.

MR. KANE: Going to go across the front of the house?

MR. COMPASSO: No, the house is a lot longer than it looks, you see the peak in the center, the peak that will be carried out 6 feet and there will be a porch underneath it.

MR. KANE: So just at that V coming out?

MR. COMPASSO: Right.

MR. MC DONALD: That's going to run the length of the building?

MR. COMPASSO: Just the very, it's like 27 feet long.

MR. KANE: No cutting down of trees or substantial shrubbery, vegetation?

MR. COMPASSO: No.

MR. KANE: No creation of water hazards or runoffs in

the building of it?

MR. COMPASSO: No.

MR. KANE: With the overhang for the roof on that will that make the house stick any closer to the road than other homes in your neighborhood?

MR. COMPASSO: No.

MR. KANE: Any easements to the front of the house?

MR. COMPASSO: No.

MR. MINUTA: Are there other homes that you're aware of within the neighborhood that protrude as far as what you're proposing?

MR. COMPASSO: On Riley Road if you go in any direction there's houses 6 feet from the road.

MR. MINUTA: Thank you.

MR. KANE: At this point, I will ask one more time is there anybody in the public for this meeting? No? So I'll open and close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 11th of June, I mailed out 17 envelopes and had no responses.

MR. KANE: Bring it back to the board. I have no further questions. Gentlemen?

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Make a motion that we grant Robert Compasso, Jr. his requested 5.3 foot front yard setback

for the proposed covered front porch at 362 Riley Road in an R-3 zone and that the overhang is not to extend passed that.

MR. REIS: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

MICHAEL DIAZ (04-38)

MR. KANE: Request for 8 ft. rear yard setback for proposed above-ground pool at 94 Creamery Drive.

Mr. and Mrs. Michael Diaz appeared before the board for this proposal.

MR. KANE: I will ask if there's anybody here that wants to speak at this particular meeting? Okay, tell us what you want to do.

MR. DIAZ: I just want to put a little bigger pool than the old existing pool was.

MR. KANE: You have a 21 foot and you're going for a 28?

MR. DIAZ: Right.

MR. KANE: You won't be cutting down any trees or substantial vegetation with the building of the pool?

MR. DIAZ: No.

MR. KANE: Creating any water hazards or runoffs?

MR. DIAZ: No.

MR. KANE: Any easements running through the area where the pool is going to be built?

MR. DIAZ: No.

MR. KANE: Basically looking at your property that's one of the few spots that you can put it in your yard anyplace basically that pool goes you're going to need some kind of a variance for it?

MR. DIAZ: Right.

MR. MINUTA: Mr. Chairman, just a point of clarification, the dotted lines within the survey that's been provided, what's that, is that a setback or is that an easement or other?

MR. KANE: I would say other, I see no markings to indicate.

MR. KRIEGER: Is that the building envelope?

MR. MC DONALD: It's on both sides that usually indicates there's an easement in there somewhere.

MR. KANE: Mike, we need your expertise.

MR. BABCOCK: I'm looking, I see exactly what you're saying, usually it says somewhere on there that it's a, it appears to be an easement but it doesn't say it.

MR. KANE: On Creamery the only easement I know going through on Creamery from the straight out is back to the little park. You're not by the park, are you?

MR. DIAZ: No, I'm on this side.

MR. BABCOCK: There's a drawn survey that says 20 foot easement but that's a utility easement.

MR. MC DONALD: Everything runs in the back in Butterhill, doesn't it?

MR. BABCOCK: You know, there's an old survey in the file that shows it as a utility easement 10 foot wide on his property.

MR. MC DONALD: If we go by that, the projected pool is going to be over the easement?

MR. BABCOCK: Yeah, yeah, we can't do that.

MR. MC DONALD: Can we move it in the other corner.

MR. DIAZ: No, I have a sprinkler system there with pop-ups.

MR. MINUTA: Well, we can't go within the easement different shape or perhaps, I don't know what else is on the property.

MR. DIAZ: I don't know, I just bought the house, I didn't even know about this.

MR. MINUTA: What this is showing if this dashed line is in fact an easement the pool, existing pool as this survey shows is already over that easement probably by possibly a foot.

MR. REIS: Did you purchase the pool separately?

MR. DIAZ: It's in my garage, it ain't set up.

MR. REIS: Understand what the problem is?

MR. DIAZ: Yeah, this is for the whole Town onto my property the electric?

MR. KANE: It's known as an easement, a lot of properties have this.

MR. DIAZ: I never knew it when I bought the property.

MR. KANE: It would be on your survey.

MR. REIS: It goes beyond your house.

MR. DIAZ: But it would have to be under my house.

MR. REIS: It's along the--

MR. MC DONALD: Ten foot on your property and 10 is on theirs.

MR. KANE: There's a lot of easements coming through Butterhill.

MR. DIAZ: It was never explained to me so I never knew about it.

MR. KANE: You can obviously put the same size. Where did you purchase the pool from?

MR. DIAZ: Royal Pool but that other pool is too small.

MR. KANE: We're going to have to take another look at your property there and decide where else we can put the pool because we can't allow it to go over the easement. So I think what, I think what I'd like to do here with your permission instead of calling a vote on this tonight we'll table the discussion so we can take a look at your property and we can do a little bit more research, make sure the easement is still there since we have a little information on it, it's on the map and I want to make sure it's all viable and then if you can come back with an alternative as to where we can put this on your property, we'll adjust the easements.

MR. DIAZ: I'd have to move the whole deck and the electric and I'd have to come back here again?

MR. KANE: Well, you're still going to be here under the same, but you'll come right back to the public hearing on this but we'll try to, we'll adjust the numbers at that point.

MR. MINUTA: Sir, if we table this vote, we can extend it and we'll give you the opportunity to find an alternative means of placing the pool.

MR. KANE: Then you'll come right back in a public

hearing. There won't be a delay for a preliminary, either that or we can go right to a vote.

MR. DIAZ: No, that may not be existing, we don't know.

MR. KANE: I'd like to do a little more research on it. The problem is you see the dotted lines here coming through, it indicates on both sides of your property line that indicates that there's possibly an easement that went through here, the 21 foot pool at this end right here just crosses over that easement.

MRS. DIAZ: I thought that was the 10 foot between the fence that that's where just showing that the pool would be, you know, would go, I thought that was just--

MR. KANE: No, usually on this kind of a survey that's the sign of some kind of easement.

MR. DIAZ: If he was able to put the pool--

MR. KANE: He cheated over a little bit, he's just right there, he just goes over that line a tiny bit, technically what could happen--

MR. DIAZ: If we turned it a little bit this way?

MR. KANE: But with us holding, tabling the vote then you can take a look at your yard, get us the correct measurements cause you're still going to need some kind of variance over here. So what we're saying is go home and just redraw this out on that and come back to us and we'll get it all straightened out for you or we can continue through.

MR. DIAZ: We have to rebuild the whole deck and everything else. I don't want to go through that. We can put the same size pool, maybe that ain't active anymore.

MR. KANE: Gives us time to make sure the easement, gives you a chance to look at your property, either way you want to go is fine with me.

MR. DIAZ: I want to look at it.

MR. KRIEGER: You have to check out whether the easement's still active.

MRS. DIAZ: How do we find that out?

MR. KANE: Mike's going to do a little research on it for us and your job is going to be to make sure this will come up the next public hearing that we have which will be in about two weeks.

MR. DIAZ: What's actually an easement, I don't know understand?

MR. KANE: An easement means that the utility companies, whether it's sewer, water, electric, they have a right-of-way through private property to be able to lay the pipes, they need the infrastructure that they need to put through and Butterhill every neighborhood has them.

MR. DIAZ: Let's say something broke in here, they have the right-of-way to come rip up my yard?

MR. KANE: If you put the pool over the easement they can go with a bulldozer and take it down.

MR. DIAZ: I'm saying if they didn't, I'm responsible for putting in the new grass?

MR. KANE: They come down, throw down some grass seed and that's the way it is.

MRS. DIAZ: Kind of odd that it follows our property line in the back.

MR. KANE: It goes out.

MRS. DIAZ: How it exactly follows.

MR. KANE: It's just a picture of your--

MRS. DIAZ: I know that but they might of done those easements, right, following the back of each property line.

MR. DIAZ: If this is no good later on, we can find out and maybe I will be able to put the pool, we might as well wait.

MR. KANE: You need to do a little more homework, so in any case, what your job will be is just to doublecheck in case we need an alternative, you'll be ready with an alternative.

MR. DIAZ: Right.

MR. KANE: Okay, we all in agreement?

MR. MC DONALD: Table it.

MR. KANE: Yeah. Your homework is to find an alternative site just in case, take a look at it, don't be so negative here, take a look in your yard and see where the pool can go with the shimmering water.

MRS. DIAZ: It has to go in the paper again?

MR. KANE: No, it's tabled, we don't have to put it back in the paper.

MR. KRIEGER: Not once it starts.

MR. KANE: We could not do it and if you decided just to go and put it up, technically, again, if there was a

problem they can come in and they're not going to wait for you to take the pool down so we need to--

MR. DIAZ: So if it's not active?

MR. KANE: Then we'll pick up right where we were and if it is active then we'll look at what your alternative is that you're bringing to us. Okay?

MRS. DIAZ: Is there anything we can do on their end?

MR. KANE: See where we can put a pool, Mike will take care of the easement, he has access to that stuff, I think it will be easier for Mike to do that, right?

MR. BABCOCK: Yes.

MR. MINUTA: What might be helpful to you is if the easement is active, there's not much we're going to be able to do for you there, however, if you take a look at other spots on your property, you may want to locate whatever may be in these areas, you said you have pop-up sprinklers and things so--

MRS. DIAZ: We have sprinklers all through here but nothing here.

MR. MINUTA: So that's obviously a viable alternative over here, just a reconfiguration of the deck without actually having to tear it down. So that's probably your most viable area. This may be, it may require a variance at that point but under the worst circumstances where this is active you're going to have to find an alternative but if it's not then we can forward.

MR. DIAZ: All right.

MR. KANE: Mike, you're going to get that alternative area the space where the pool is, you know, to you to

measure out half the diameter and then on the back thing I want you to give me a measurement from the property line to the wall to see if you need a variance so you can give us that number and we can work with that from there cause I don't want to delay it again. So you need to come in prepared with the numbers that we need for that, how many feet the wall will be from the property line so we have everything and we can just move along.

MR. DIAZ: Like 10 feet, right?

MR. KANE: In Butterhill, yes, we're 12, right, Mike?

MR. BABCOCK: He's got 10 here, Mr. Chairman, so I really don't, actually, he's got the requirement he's saying is 10, I have to check that, he's saying requirement is 10, they're only going to be 2.

MR. KANE: Who's he?

MR. BABCOCK: Lou the building inspector that wrote this up and that's exactly--

MR. KANE: Does Butterhill have different setbacks?

MR. BABCOCK: No, the side yard is 12 feet.

MR. KANE: And back is 10?

MR. BABCOCK: Right so bring us those measurements so that if we do and we find that it is an easement then we'll have the measurements, we can proceed, boom, you can get the kids out of the sprinkler and into the pool.

MRS. DIAZ: Then we have to come in two weeks to the next one?

MS. MASON: I'll notify you.

MR. DIAZ: Thank you.

MR. KANE: So officially--

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: I make a motion that we table the vote for Michael Diaz for the requested eight foot rear yard setback to provide him time to research the property and alternatives to the possible easement that encroaches his rear yard and side yard.

MR. KRIEGER: Table it to the next meeting, right?

MR. MINUTA: To the next meeting.

MR. MC DONALD: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

DELTA GAMMA CORP. (FOR CATHERINE ANDERSON) (04-36)

MR. KANE: Request for 70 ft. road frontage for a building lot at 308 Elm Drive.

Mr. Lou Powell appeared before the board for this proposal.

MR. KANE: I'm assuming that you're here for this meeting? Okay, sir?

MR. POWELL: Lou Powell from Eustance and Horowitz, we're engineers for Delta Gamma Corporation who is the applicant and the owner is Catherine Anderson Rose. This is a grandfathered lot which is landlocked on a paper street known as Elm Drive, it's 308 Elm Drive. And we're requesting a variance. There's no legal front yard. The owner has contacted the Town and has a commitment to buy an easement over Elm Drive as access to that lot. The house would meet all setback requirements for the zone.

MR. MINUTA: Just to clarify, this is for a house, proposed house?

MR. KANE: Yes.

MR. KANE: Single-family house?

MR. POWELL: Yes, single family, Town sewer and well.

MR. KANE: Cutting down any trees or substantial vegetation in the building of this?

MR. POWELL: Well, there will be some trees cut down for the placement of the house, yes. Elm Drive is pretty much clear because they put the sewer up to it, that's brush.

MR. KANE: Create any water hazards or runoffs with the

building of it?

MR. POWELL: No.

MR. KANE: Size of the house is similar to other homes that are in the neighborhood, size and appearance?

MR. POWELL: I would say so.

MR. REIS: Do you have the square footage of the house?

MR. POWELL: No, what's shown here is like a 64 X 42 but the house is actually going to be smaller and it shows a big box, there will probably be jogs, I have no idea what size house he's proposing there.

MR. REIS: Mr. Chairman, just--

MR. MINUTA: Just a clarification, I'm coming in on this a little late, the request for 70 foot road frontage for the building lot, is that the only request here based on the bulk table that I'm seeing?

MR. BABCOCK: Yes.

MR. POWELL: That's a grandfathered lot.

MR. MINUTA: Thank you, okay.

MR. POWELL: At the last meeting, the chairman suggested we might want to do something with the square footage cause it was grandfathered to take care of that but it is a grandfathered lot.

MR. MINUTA: Thank you.

MR. POWELL: Which I believe grandfather runs off in September if they don't do something.

MR. BABCOCK: October 3rd.

MR. REIS: Mike, does this meet the minimum requirements for today's zoning?

MR. BABCOCK: Yes, it's 26,374 square feet.

MR. KANE: Okay, at this point, what we'll do is open it up to the public and hear what they have to say. I will ask you to stand up please, state your name clearly and ask whatever questions you have or whatever statements you need to make one at a time, please. Ma'am?

MS. COCOZZA: Emily Cocozza and I live on Chestnut Avenue, my property is right next to Elm Drive and the view from my kitchen, my husband's bedroom is Elm Drive, beautiful trees, I'm very much an environmentalist, I don't know what's going on, is that drive or is that house going to be built in there?

MR. KANE: They want to build a house on that property back there.

MS. COCOZZA: On the paper street?

MR. KANE: Yes.

MR. POWELL: It's off the paper street, it's an existing lot but they did use the paper street for a driveway.

MS. COCOZZA: What is it you're saying?

MR. POWELL: It's an existing grandfathered lot but they would use the existing paper street for access.

MS. COCOZZA: Or access and where would the house be? This is my property, all right, I have an acre and a quarter, this is the separate half acre lot next to my garage, I bought it as one piece but the previous owner

couldn't sell the house and she divided and I have a separate survey on that, that's a half an acre, okay, this is my house, here's my garage.

MR. POWELL: It's this lot back here, this is your house and your garage.

MRS. COCOZZA: Mrs. Carter was over here, where are you in relation to Mrs. Carter?

MR. POWELL: That's the lot now formally Anderson is this lot.

MS. COCOZZA: Where was Mrs. Carter?

MR. POWELL: I don't know where Mrs. Carter is, I think she's behind that lot, there's a Carter which is a lot behind this lot.

MRS. COCOZZA: So what I see here that that wasn't very clear on that paper they want a drive here to over here, is that it, behind my garage where the well is?

MR. POWELL: Look right here, here's the proposed driveway.

MS. COCOZZA: This is my house.

MR. POWELL: That's the proposed driveway and this is the proposed house location.

MS. COCOZZA: And that would be more or less behind Mrs. Carter's property or near it?

MR. POWELL: This is Carter's house, it's between.

MRS. COCOZZA: So show me on here here it would be.

MR. POWELL: Well, the house is here, this is the lots.

MS. COCOZZA: House would be over here, it wouldn't be behind my garage then, right?

MR. POWELL: No.

MS. COCOZZA: I wondered what was going on behind my garage that they removed the stakes and put new stakes up 20 or 25 feet from my property line.

MR. KANE: Nothing to do with this application, ma'am.

MS. COCOZZA: Well, all I can say I don't understand why a paper street that belongs to the Town why the Town would allow this.

MR. KANE: Because they have a landlocked piece of parcel that's been grandfathered in and they're allowed to build and they're allowed to get access to it, so the Town is allowing them access to the property that they own.

MS. COCOZZA: They're not keeping it to preserve a little bit of remaining land.

MR. KANE: People have a right to build on property.

MS. COCOZZA: If the Town approves it, the Town has to approve it.

MR. KANE: Ah-huh.

MS. COCOZZA: Well, what worries me is this past winter when I can see what's going on over there two boys on some sort of vehicle like an all-wheel terrain went into that property, knocked down whatever trees they could with this motor bike or whatever it was they had, pulled all small trees up by the roots and from that time I have had people parking in there, walking in there and I don't understand why.

MR. KANE: Ma'am, none of this has anything to do with the house being built on that lot.

MS. COCOZZA: This will be a private drive that people couldn't go up?

MR. KANE: Ah-huh.

MR. POWELL: It will look just like a driveway to somebody's house.

MS. COCOZZA: Would I be able to see this other house or not?

MR. POWELL: Probably yes.

MS. COCOZZA: I know when I go on Sycamore and I go opposite Elm Drive it's all water there, it looks like a big pond.

MR. POWELL: It's over there someplace, that's down below that, that's not that lot.

MS. COCOZZA: Well, all right, it's quite close to my house, however, and, you know, I'm very concerned about wells, \$11,000 for a well that I had to put over here about three years ago, five of my neighbors across the street within one week all lost their water, okay, all of them had wells dug out. I had to have a new one. That's my main concern, plus I'm an environmentalist and it's a haven for animals also when you cut down trees, you have erosion of soil, that's another problem, plus trees also bring oxygen and I have, you know, I'm very, I'm very fond of animals and wildlife and birds, I've written two stories in the national libraries about animals, I have three more I haven't been able to finish, so I have environmental concerns about that too. But mainly the water is the big problem that they're allowing wells, I understand that once the water comes through for people that people

then have the choice of keeping their well or using the public water that may be a different story if this is a complete half acre of land or what.

MR. KANE: 26.

MR. POWELL: A little bigger than a half acre.

MS. COCOZZA: Well, my main concern of environmental is close to me but the well is a big worry and I doubt if the people across the street are even aware that this would be something close like that.

MR. KANE: Everybody in 500 feet has been mailed, ma'am, just like you.

MS. COCOZZA: They have but it's not very clear, it says Elm Drive and most of them don't even know it's Elm Drive, I know because I have the survey.

MR. KANE: Okay, ma'am, thank you.

MS. COCOZZA: Thank you.

MR. KANE: Next?

MS. KOTITE: Hello, my name is Kotite and I live right around the corner from this property and I'm interested in asking a couple questions, you know, the dimensions of the property?

MR. POWELL: 263 and 153 across the back and 225 and 100 across the front.

MS. KOTITE: If those are the dimensions, why are they asking for a 70 foot?

MR. KANE: Because they don't have road frontage.

MR. POWELL: This is a paper street.

MR. KRIEGER: Doesn't have to do with the dimensions, it's a separate requirement of the zoning law, they must have so much.

MR. KANE: This is Chestnut, that's where they want the 70 so they have to get in the front. This is the property right here, so the driveway will be right in here and this is a hundred feet going across, they need a 70 foot variance because technically that's not road frontage.

MS. KOTITE: How large is the house going to be?

MR. KANE: We don't have the exact dimensions on that but if they did a 64 X 42 house, let's put it that way, they don't need any other variances to put that size house in there and that's a pretty big size, right now we don't have the dimensions on that nor is that a requirement for us at this point.

MS. KOTITE: Do you know how high the house will be?

MR. BABCOCK: Maximum 35 feet.

MR. KANE: Two story basically.

MS. KOTITE: The reason I'm asking these questions is because I'm on the other side of Elm, I'm over here and when this gentleman said that Elm is clear, that's untrue, if you pass by Elm in a car, you can't even identify Elm because it's all woods, it's all trees so when you ask everyone if there will be substantial cutting of trees and vegetation, the answer is definitely yes, this will all have to be cleared out so that the trucks can get in and out.

MR. POWELL: There's only brush up where they put the sewer which would have to be cleared for the driveway.

MS. KOTITE: Once they cut all the trees and all this vegetation, this is going to be their driveway, they're going to have to enter through Chester, they need this as an easement to get into the driveway, correct, so this is all going to be cleared which it is not right now so we, when he said won't be cutting down major vegetation, that's not true, you'll be cutting down big trees, lots of vegetation, this will change the entire character of the property. I also wanted to ask style of the house, do we know what kind of a style it will be?

MR. KANE: No.

MS. KOTITE: This seems to me, I know that the zoning rules are changing in the fall, this seems to me to be like sort of a last minute effort to wedge a house into a property that's--

MR. KANE: They have a right to build and they have till September to do it for three years, you can't take away people's rights.

MS. KOTITE: I understand.

MR. KANE: After the zone changes when they change in September whatever it is, the same people still have three years after that to make these changes.

MS. KOTITE: I'm not disputing their right to build a house, what I am concerned about is that the house is a house that conforms to the other houses in the area because I know that that house on Sycamore that was turned down that the gentleman is reapplying for that house was turned down because it was such a huge house and didn't conform.

MR. KANE: Understandable but you're comparing apples and oranges, they can put a house with no variances, the other house needed variances.

MS. KOTITE: Aren't they applying?

MR. KANE: Just for road frontage, nothing to do with the size of the house, nothing to do with the house itself, they can put a plastic castle there if they wanted to as long as it was under 35 feet high and kept the side and the back yard type thing, that's the kind of stuff we can't control to a degree.

MS. KOTITE: I feel that our concerns, Mrs. Cocozza and my family is that we don't want to see an excessively large house that's going to affect our wells. She spent 11,000, I spent 5,000 to re-dig our wells because of all the construction in the area. I don't think this is going to help our situation and we don't want to have to have future expenses. Couldn't the builder put up a bond so if they do affect our water that we can hold them accountable?

MR. KANE: No, it's not up to us to ask that at all.

MS. KOTITE: Who's it up to?

MR. KRIEGER: No, they cannot be legally required to do that.

MS. KOTITE: If they affect our water, it's too bad for us? Because it happened once, we hope it doesn't happen again, it's a huge expense.

MR. KANE: Yes, it is.

MS. KOTITE: Well, if you're saying that the house is 64 X 42.

MR. KANE: We don't know that, that's a maximum size they're giving us right now.

MS. KOTITE: And since it says on the paper 308 Elm

Drive is the address does that necessarily mean the house will face Elm Drive the entrance?

MR. KANE: Yes, it's going to face Elm Drive.

MR. POWELL: Yes, they would come up the driveway and go into the house.

MS. KOTITE: Can you tell me what the present code is for side setbacks and frontage like how far off Elm will the house be, how far back?

MR. BABCOCK: Forty-five minimum frontage.

MS. KOTITE: How about the left and the right?

MR. BABCOCK: Twenty on one side, 20 on the other.

MS. KOTITE: Those are your minimums?

MR. BABCOCK: Yes.

MS. KOTITE: In the back it's big.

MR. BABCOCK: Minimum is 35 feet.

MR. KANE: They've got, they're not even going to touch that.

MS. KOTITE: I heard this gentleman also say that he wanted to buy the paper road or buy an easement.

MR. POWELL: They have to acquire an easement from the Town over Elm Road to do this.

MS. KOTITE: Does that mean they'll been purchasing Elm Road?

MR. KANE: No, belongs to the Town.

MR. KRIEGER: An easement is a right to use somebody else's property, what you purchase is the right, not the property.

MS. KOTITE: Do you happen to know if that's the last landlocked piece of property?

MR. KANE: I have no idea.

MS. KOTITE: I'd love to see the big map so I can see where my house is, I'll go to Goshen so I really wanted to ask a lot of questions but I have to agree with my neighbor, I think it's going to environmentally impact us in a negative way, unfortunately, like you said, can't take the right away from people to build on their own property. I just hope they have the decency to conform a little bit to the proportions of the other homes nearby.

MR. POWELL: I have no control over that.

MS. KOTITE: Let's hope that it really doesn't have too much of a negative impact.

MR. POWELL: I don't think it will.

MS. KOTITE: You don't live right there. I think that's it. Thank you.

MR. KANE: You're welcome. Next? Anybody else want to speak? At this point, I'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 11th of June, I mailed out 43 envelopes and I had no responses.

MR. KANE: If this is approved through here, do they have to go in front of the planning board?

MR. BABCOCK: No, actually straight to me and they

still have to finish up their negotiation with the easement with the Town attorney before they would receive a building permit.

MR. KANE: So the regular building, the house that gets built on the lot that's under the building department's approval?

MR. BABCOCK: That's correct.

MR. KANE: Unless there's some kind of special needs.

MR. BABCOCK: That's correct.

MR. MINUTA: Is there a requirement of the type of road that needs to be put in on the paper road for the driveway?

MR. BABCOCK: I'm sure that's going to be a discussion, right now, well, they did put a sewer line down that several years ago, I'm sure there's going to be a amount of gravel, certain amount of gravel and certain width for a driveway and that will be all spelled out in the easement.

MR. POWELL: The market value of that easement is \$10,300, that was as of November 13, 2003. I don't know if it's gone up since then or not.

MR. KANE: When I asked if anybody had anything else to say, the public portion was closed. You just don't interrupt the meeting. That's why I asked if anybody else had any other questions. Okay, I'll let you speak in the interest of the hearing, what do you have to say. Please state your name and your address.

MR. MC DONALD: I can ask off the record, I'm just curious.

MR. KANE: No, we like everything on the record.

MR. MC DONALD: Kevin McDonald. I wrote my name. The Elm Drive, is it going to be a single lane driveway or going to be a cul-de-sac? What are they proposing for that?

MR. BABCOCK: Single lane driveway..

MR. POWELL: Up to the house.

MR. MC DONALD: Just gravel, okay.

MR. KANE: They haven't gotten to the specifics down on that, I mean, that deal hasn't been done yet.

MR. MC DONALD: I can't imagine a road.

MR. KANE: Yeah, it's as Michael said, the building inspector, it's going to be a single lane driveway so I'm sure he knows more than the rest of us.

MR. POWELL: The owner is not going to put a road up there.

MR. MC DONALD: That makes no sense, okay, thank you.

MR. KANE: Okay.

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Mr. Chairman, I make a motion that we grant Delta Gamma Corp their requested 70 foot road frontage for the building on 308 Elm Drive in an R-4 zone.

MR. MC DONALD: Second it.

ROLL CALL

June 28, 2004

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

DISCUSSION

MR. REIS: This particular lot that exists within 500 feet of the Taldone lot, the one that was turned down last week, two weeks ago and the big, the two issues, one was size of the house was not conforming to the community and the other was the overwhelmingly negativism with regard to the water, okay, and those were the only two issues. So I just want to make a note that the two people that spoke on this tonight mentioned the water, all right, and we didn't have any inflammatory remarks or an attorney or anybody else supporting or knocking down the fact that this was going to impact their wells, okay, and at the same time this is within that same 500 feet. Just a note of reference.

MR. KANE: Are you complaining that the other one was passed, this one was passed and the other one wasn't?

MR. REIS: Just a point of reference.

MR. KANE: Point of reference we had 43 mailings and two people showed up. The other one the whole neighborhood showed up, they don't care about this one. That makes a big difference.

MR. REIS: There's no continuity, okay.

MR. KANE: Everything is supposed to be taken on its own merit.

MR. REIS: No, I'm not challenging the board's position on it, I'm just mentioning it.

MR. KANE: But you can't, there's no continuity, if you want continuity, Mike, then there's no zoning board of appeals.

MR. REIS: I'm not challenging the continuity, I'm just

making mention that there's an underlying, I believe there's an underlying issue with some of the neighbors there and nothing else other than that.

MR. KANE: Okay, thank you. Motion to adjourn.

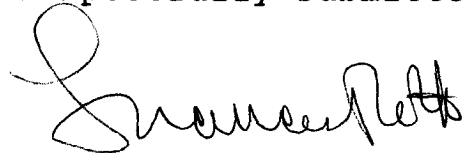
MR. MINUTA: So moved.

MR. REIS: Second it.

ROLL CALL

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| MR. RIVERA | AYE |
| MR. MC DONALD | AYE |
| MR. REIS | AYE |
| MR. KANE | AYE |
| MR. MINUTA | AYE |

Respectfully Submitted By:



Frances Roth
Stenographer

1/15/04